

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN HARRIS P.C.,

Plaintiff,

16-cv-5610 (JGK)

- v. -

MEMORANDUM OPINION
AND ORDER

GERALD J. TOBIN a/k/a and d/b/a
GERALD J. TOBIN P.A., GERALD J. TOBIN
P.A. and HELENE TOBIN a/k/a HELENE K.
TOBIN a/k/a HELENE P. TOBIN,

Defendants.

JOHN G. KOELTL, District Judge:

The Court has scheduled oral argument on all outstanding motions for **November 16, 2017**.

In a letter dated **July 6, 2017**, the plaintiff requested oral argument or an opportunity to submit a sur-reply brief. Scheduling oral argument moots the request for a sur-reply brief. But, in any event, the request to submit a sur-reply brief is without merit and is denied.


The plaintiff argues in its letter that the defendants had raised a new argument in their reply in support of their motion in limine to limit the plaintiff to a rate of \$275 per hour. The plaintiff argues that the defendants had argued in reply that the plaintiff should be limited to the rate at which it had actually billed the defendants. But this argument was in fact made in the original motion and the defendants cited several cases in support of that proposition. See Mar Oil, S.A. v.

Morrissey, 982 F.2d 830, 842-43 (2d Cir. 1993); Chernis v. Swarzman, No. 05-cv-3377, 2007 WL 2230078, at *10 (S.D.N.Y. Aug. 2, 2007); Finkelstein v. Kins, 511 N.Y.S.2d 285, 288 (App. Div. 1987). Therefore, there is no basis for a sur-reply brief.

The request to file a sur-reply brief is denied. The Clerk is directed to close Docket No. 88.

SO ORDERED.

Dated: New York, New York
November 8, 2017



John G. Koeltl
United States District Judge